



INTERIOR BOARD OF INDIAN APPEALS

Robert Bell, Sr. v. Aberdeen Area Director, Bureau of Indian Affairs

19 IBIA 150 (01/08/1991)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ROBERT BELL, SR.,
Appellant

v.

ABERDEEN AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Affirming Decision
:
:
:
: Docket No. IBIA 91-7-A
:
:
: January 8, 1991

Appellant Robert Bell, Sr., seeks review of an August 28, 1990, decision of the Aberdeen Area Director, Bureau of Indian Affairs, disapproving his U.S. Direct Loan application. The Area Director's decision states:

This decision [to disapprove appellant's application] has been based on an analysis of your application package, financial position and your past loan performance. This analysis revealed that your current financial position could not support additional debt. In addition, both the BIA and Tribal loans are in a delinquent status and have not performed satisfactorily. This fact precludes further credit consideration.

Although your application indicates additional equipment purchases would lower business costs, in fact, the reverse would be true. The additional debt servicing requirement would exceed lease costs which would have a detrimental effect upon cash flow. One of the items proposed to be purchased would replace a pick-up which was lost without satisfying the debt against it. Your business viability is dependent on your efforts to repay obligations in good faith as they become due, therefore, avoiding actions which result in the loss of assets.

Appellant's notice of appeal to the Board from this decision states:

1. I am appealing the decision of the Area Director, Aberdeen Area Office.
2. My formal appeal will be filed within the next 30 days.

After receiving the administrative record, by notice of docketing dated October 29, 1990, the Board informed the parties of their right to file briefs. No briefs or other statements were filed.

In appeals arising under 25 CFR Part 2, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. See, e.g., Kays v. Acting Muskogee Area Director, 18 IBIA 431 (1990), and cases cited therein. In this case, the notice of appeal does not set forth any grounds for the appeal, and appellant has not filed a brief indicating those grounds. Because it has not given any reasons for the appeal, or attempted to show the error in the Area Director's decision, appellant cannot sustain its burden of proof.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the August 28, 1990, decision of the Aberdeen Area Director is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge